

My name is Walter Esler III and I am a concerned citizen. These are my comments on MB Docket No. 02-230, Notice of Proposed Rule making. In short, I am opposed to regulations that would limit my fair use rights, and am unconvinced that they are necessary or beneficial to the public. The following is a more detailed explanation.

1) Does the FCC have the right to mandate the use of a copy protection scheme for DTV?

No the FCC does not have a right to put such restrictions on this segment of the public airways. This segment of the radio spectrum was meant to be freely accessible to the public. Furthermore I don't believe that the FCC has been authorized to abridge the fair use rights of the public, especially on this segment of the radio spectrum. If the FCC has a right to do anything related to copy restrictions it would only be to prohibit them.

2) If it is determined that the FCC does have the authority to abridge fair use rights on content transmitted via DTV should it?

The main reason that I have heard for mandating copy protection is that it would benefit the public by speeding the adoption of DTV. It would do so because many major content producers claim to be unwilling to produce content for DTV unless this copy protection were mandated. These content providers claim they must do so because digital television would be much more easily pirated than analog. Aside from the fact that this demand strongly resembles blackmail, there are numerous reasons why this is absurd:

1. This argument primarily depends on the false assumption that digital content is easier to pirate than analog content. Analog is just as easy to pirate as digital and analog is easy to convert to digital, in fact much of that digital content is likely to have been converted from analog itself. In addition people who seek out pirated video are generally not concerned with quality.
2. Given the amount of money that is spent on television, it is absurd to conclude that because a few content providers claim that they will not provide content that there will not be content. If you recall, it is a free market and if one person is unwilling to provide you a service someone else will be, especially when the services in question are worth millions.
3. The main impediment to me and many others in converting to digital television is the costs of the DTV equipment. These regulations would likely increase that cost.
4. If one is worried about piracy they definitely should not be broadcasting their content over the radio.

In addition to all I have already said, these proposed regulations would most likely hurt the television industry and many more industries. If similar regulations had existed when analog television was introduced the VCR, which has benefitted this industry greatly, likely would never have been invented. In fact many of the corporations demanding this regulation were horrified by television and have now embraced it. If this restriction is put in place who knows what kind of innovation will be stifled.

In conclusion, these regulations are short sighted, ill conceived, and will negatively affect all but a small percentage of the public.

Thank you for your time,
Walter Esler III